

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiffs,

v.

Case No. 2:22-CV-1834-KG

ANDRES TOJ, ET AL.,

Defendants.

ORDER

This matter comes before the Court on defense counsel Danielle Phillips' Motion to Vacate Call of Calendar (Doc. 64), previously set for Wednesday, July 9, 2023, at 11:30 p.m. At the Call, the Court called the case. Assistant United States Attorney, Randy Castellano appeared for the United States. However, Ms. Phillips failed to appear and had not contacted the Court in advance in any way to inform that she would be late or that she would not be available. In considering the instant motion to vacate, the Court notes the call of the calendar was set by the Court two weeks prior, on July 7, 2023. The Court also notes this is not the first time Ms. Phillips has failed to appear for a Call of Calendar without prior notice. With that background, the Court proceeded to the Call without Ms. Phillips, inquiring of AUSA Castellano about the status of the case, who reported that a revised plea agreement had been offered to the defendant through counsel but no response had been received whether it would be accepted. The Court then set the matter for trial on August 7, 2023, set a plea agreement deadline for July 28, 2023, and recessed. (Doc. 65). Approximately 30 minutes later and after court staff telephoned Ms. Phillips for her whereabouts, Ms. Phillips filed the instant motion to vacate, stating she "will be

unavailable” because of “emergency medical induction.” The Court DENIES the motion to vacate, filed late, as moot.


UNITED STATES DISTRICT JUDGE